

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MICHAEL MCKENZIE, individually and
doing business as AMERICAN IMAGE
ART, an unincorporated d/b/a,

Plaintiff,

v.

ARTISTS RIGHTS SOCIETY, INC., and
JANET HICKS,

Defendants.

CIVIL NO. 1:22-cv-01619-MKV

DECLARATION OF BRIDGET A. ZERNER

I, Bridget A. Zerner, declare under penalty of perjury as follows:

1. I am a member of the Bar of this Court and a partner at the firm of Markham Read Zerner LLC, attorneys for Plaintiff in the above-entitled action. The facts stated herein are based upon my own personal knowledge and if called upon to do so I could and would testify competently to the statements set forth below.

2. I contacted the company United Process Service, Inc. to attempt service of the summons and complaint in this action. I have not used this company before and chose them based on their location, website, and prompt call back to my email request for assistance.

3. Their website and information on their business and years of experience is found at <https://www.unitedprocess.com/about-us/our-team/> [last accessed on 6/29/2022]

4. Attached to this declaration as Exhibit A is a true and accurate copy of my email correspondence with United Process concerning this job.

5. When I requested the process server to serve these Defendants, I had no description for Janet Hicks and did not provide any description of her or any photo of her to the process server. I have never met or seen Janet Hicks. I have no photos of her and have never seen a photo of her.

6. I did not provide the process server company contact information to my client, Michael McKenzie, or put them in contact with each other.

7. Three different people at United Process confirmed to me that the Defendants were served: Joel Graber, Company President (Exhibit A-1), Debbie Cruz, Account Liaison (Exhibit A-4), and Neida Rivera Valdez, Senior Court Specialist (Exhibit A-7). Rivera Valdez emailed to me the executed affidavits of service which I then e-filed at ECF 10 and 11.

8. I have had no direct communications with the process server, Andre Meisel, identified on the affidavits of service.

9. I was provided the affidavits by United Process and e-filed them.

10. Our firm had no reason to think the sworn affidavits of service provided were in any way defective, misleading, or not truthful.

11. We contacted United Process Service on June 29, 2022 after receiving the opposition papers filed by Defendants challenging these affidavits of service and provided to them the Declaration of Janet Hicks.

12. United Process Service has advised that the process server, Andre Meisel, has no specific memory of this particular service job as he serves thousands of papers and this job was completed over a month ago. But he had not been informed before he did the service of any description of Ms. Hicks, but his description of her is fairly accurate as I understand it from reading Ms. Hick's own declaration and from my client's observation of her at a deposition.

I declare under the laws of the State of New York and the United States of America that the foregoing is true and correct.

Executed this 29th day of June, 2022 in Boston, Massachusetts.

/s/ Bridget A. Zerner
Bridget A. Zerner (BZ2582)
MARKHAM READ ZERNER LLC
One Commercial Wharf West
Boston, Massachusetts 02110
Tel: (617) 523-6329
bzerner@markhamreadzerner.com

Exhibit A - 1

From: Bridget Zerner
Sent: Thursday, May 26, 2022 11:15 AM
To: 'Joel Graber'
Subject: RE: Service of Federal Complaint this Week

Great, thanks, Joel!

Bridget A. Zerner
MARKHAM READ ZERNER LLC
One Commercial Wharf West
Boston, MA 02110
Tel: (617) 523-6329
Fax: (617) 742-8604
bzerner@markhamreadzerner.com

www.markhamreadzerner.com

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From: Joel Graber <jgraber@unitedprocess.com>
Sent: Thursday, May 26, 2022 11:15 AM
To: Bridget Zerner <bzerner@markhamreadzerner.com>
Subject: RE: Service of Federal Complaint this Week

They were both served on Janet Hicks on 5/24
joel

From: Bridget Zerner [<mailto:bzerner@markhamreadzerner.com>]
Sent: Thursday, May 26, 2022 9:51 AM
To: jgraber@unitedprocess.com
Cc: info@unitedprocess.com
Subject: RE: Service of Federal Complaint this Week

Good morning – I am calling to check on the status of this order placed and paid for via credit card on Monday for expedited service. As mentioned, we are up against a deadline so I need to know if service was attempted and if other arrangements need to be made or service can be completed by tomorrow. Thank you for your assistance.

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Exhibit A-2

From: Bridget Zerner
Sent: Wednesday, May 25, 2022 1:29 PM
To: 'jgraber@unitedprocess.com' <jgraber@unitedprocess.com>
Subject: RE: Service of Federal Complaint this Week

Good afternoon –

I am checking back on whether there is any update on any service attempt on this job just in case there was any indication that the office to be served is not open because they are working remotely. We are up against our deadline to serve because the parties were engaged in settlement efforts that just recently failed. So in case we can't serve the individual, Hicks, at the Bleecker Street address, I want to have time to find her address to attempt service at home.

Thanks for your help!

Bridget

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From: Bridget Zerner
Sent: Monday, May 23, 2022 9:49 AM
To: 'jgraber@unitedprocess.com' <jgraber@unitedprocess.com>
Subject: Service of Federal Complaint this Week

Good morning,

We need two parties served this week – an individual and entity – at the same address. We need them served no later than this Friday, May 27, 2022.

Artists Rights Society
65 Bleecker Street, 12th Floor
New York, NY 10012

Janet Hicks
65 Bleecker Street, 12th Floor
New York, NY 10012

We need both served with attached: Complaint, Civil Cover Sheet, Summons, Statement of Relatedness, Notice Case Declined as Not Related, Magistrate Designation, and Judge Reassignment.

Thanks for letting me know if your team is available to complete service this week.

Bridget

Exhibit A - 3

Bridget A. Zerner
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Boston, MA 02110
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Exhibit A - 4

From: Bridget Zerner
Sent: Thursday, May 26, 2022 3:55 PM
To: 'Debbie Cruz'
Subject: RE: Service of Federal Complaint this Week

Thank you very much!

Bridget A. Zerner
MARKHAM READ ZERNER LLC
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Boston, MA 02110
Tel: (617) 523-6329
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From: Debbie Cruz <debbie@unitedprocess.com>
Sent: Thursday, May 26, 2022 3:48 PM
To: Bridget Zerner <bzerner@markhamreadzerner.com>
Subject: RE: Service of Federal Complaint this Week

GOOD AFTERNOON, SERVICE WAS COMPLETED ON 5/24

Best Regards & Stay Safe

Debbie Cruz
United Process Service, INC.
225 Broadway – Suite 440
New York, NY 10007
Tel: (212) 619-0728, Ext. 105
Fax: (212) 619-2288

From: Joel Gruber [<mailto:jgruber@unitedprocess.com>]
Sent: Wednesday, May 25, 2022 2:52 PM
To: 'Debbie Cruz' <debbie@unitedprocess.com>
Subject: FW: Service of Federal Complaint this Week

From: Bridget Zerner [<mailto:bzerner@markhamreadzerner.com>]
Sent: Wednesday, May 25, 2022 1:29 PM
To: jgruber@unitedprocess.com
Subject: RE: Service of Federal Complaint this Week

Good afternoon –

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Exhibit A - 5

Thanks for your help!

Bridget

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Subject: Service of Federal Complaint this Week

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Exhibit A - 6



Virus-free. www.avast.com

Exhibit A - 7

From: Bridget Zerner
Sent: Thursday, May 26, 2022 11:40 AM
To: 'Neida Rivera Valdes'
Subject: RE: Scan from a United Process

Thank you so much and have a great rest of the week!

Bridget A. Zerner
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-----Original Message-----

From: Neida Rivera Valdes <neida@unitedprocess.com>
Sent: Thursday, May 26, 2022 11:37 AM
To: Bridget Zerner <bzerner@markhamreadzerner.com>
Subject: FW: Scan from a United Process

Good morning dear, here are copies of the affidavits we spoke about this morning. The originals will follow for your records. Have a pleasant day

Thank you,

Neida
United Process Service, Inc.
225 Broadway
Suite 440
New York, NY 10007
212-619-0728 ext 109
Fax: 212-619-2288

-----Original Message-----

From: United Process [mailto:scan@unitedprocess.com]
Sent: Thursday, May 26, 2022 11:22 AM
To: neida@unitedprocess.com
Subject: Scan from a United Process

Please open the attached document.

Number of Images: 2
Attachment File Type: PDF

Exhibit A - 8

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This email has been checked for viruses by Avast antivirus software.
https://url.emailprotection.link/?blGrx8TcLDzAiQ76Zvr4bmtOGHoP55kSQK060ljODqZEyPYsGUHLmRJdKdNwRfrnrV_0eAEUW7qacMwX5cN5Fg~~